

THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, N.Y. 10007

MICHAEL A. CARDOZO
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BY FAX AT (212) 805-7928
Honorable Michael H. Dolinger
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Freddy Colon Rodriguez v. New York City Dep't of Corr., et al.,
07 CV 8126 (GBD)(MHD)

Dear Judge Dolinger:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the supervising attorney for defendants City of New York ("City"), New York City Department of Correction ("DOC"), and New York City Board of Correction.¹ Pursuant to the request of Your Honor's law clerk Ilana, please find enclosed a copy of defendants' letter to the Honorable George B. Daniels dated January 3, 2008 requesting that defendants' pending motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) be deemed fully briefed.

¹ Defendants respectfully submit that DOC and the Board of Correction are not suable entities.

This case has been assigned to Assistant Corporation Counsel Bradford C. Patrick, who is presently awaiting admission to the bar and is handling this matter under supervision. Mr. Patrick may be reached directly at (212) 788-1575.


ENCL. (5) ORDER
We deem plaintiff's pro se
Amended Verified Complaint to
be his effort to respond to
defendants' previously filed
motion to dismiss. Defendants
are deemed
to have an
file papers
addressed to the
January 25, 2008
specifies of why
the amendment, pleading
(even if unsubmitted)
does not cure the
deficiencies identified
by the pending motion
thus is to be denied
in order
than filing 6, 2008,

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JAN 25 2008

1/21/08

Thank you for your consideration in this regard.

Respectfully submitted,



Anna Nguyen
Assistant Corporation Counsel
Special Federal Litigation Division

Enc.

cc: BY MAIL
Freddy Colon Rodriguez
Plaintiff Pro Se
918 Dumont Ave., Apt. 1-F
Brooklyn, NY 11207



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January 3, 2008

BY HAND

Honorable George B. Daniels
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Colon Rodriguez v. New York City Dep't of Corr., et al.,
07 CV 8126 (GBD)

Dear Judge Daniels:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the supervising attorney for defendants New York City Department of Correction, New York City Board of Correction and the City of New York.¹ As Your Honor may recall, pursuant to the Court's November 27, 2007 Order, defendants served upon plaintiff their motion to dismiss the complaint in this matter on November 21, 2007 and thereafter filed the motion electronically and delivered a courtesy copy to the Court. Pursuant to the Court's November 27, 2007 Order, and as set forth in defendants' Notice of Motion, plaintiff's opposition papers were due to be served on defendants by December 21, 2007.²

Defendants write to respectfully inform the Court that to date, plaintiff still has not served his opposition papers to the defendants' motion or sought an additional enlargement of time. On December 18, 2007, plaintiff attempted to file a document purporting to be an

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² Defendants mailed to plaintiff a courtesy copy of the Court's November 27, 2007 Order by letter dated December 14, 2007.

amended complaint without leave of the Court or defendants' consent as required by Rule 15(a)(2) of the Federal Rules of Civil Procedure. Defendants respectfully request that the Court disregard the purported amended complaint in light of the pending motion to dismiss.³

Because plaintiff has not adhered to the Court's November 21, 2007 Order and because defendants' reply papers are due to be served by January 11, 2008, defendants respectfully request that the Court deem defendants' motion as unopposed and grant defendants' motion to dismiss the complaint in its entirety.

Thank you for your time and consideration in this regard.

Respectfully submitted,



Anna Nguyen
Assistant Corporation Counsel
Special Federal Litigation Division

CC: BY MAIL
Freddy Colon Rodriguez
Plaintiff Pro Se
918 Dumont Avenue, Apt. 1-F
Brooklyn, NY 11207

³ Defendants submit that the purported amended complaint does not cure the defects of the original complaint as set forth in defendants' motion to dismiss.